

**COURT OF APPEAL
STATE OF CALIFORNIA
THIRD APPELLATE DISTRICT**

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The Minutes

October 28, 2002

At 9:35 a.m., the court met in the Library & Courts Building to begin its court calendar session. Present: Scotland, Presiding Justice; Morrison, Associate Justice; Callahan, Associate Justice; and Guzman, Bailiff. Calendar Called.

C037901 THE PEOPLE v. BARBER

Cause called. Mark Greenberg, court appointed counsel, argued for appellant. James Ching, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:11 a.m., the court recessed. At 10:16 a.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Robie, Associate Justice.

C038565 GRAY v. GRAY

Cause called. John H. McKinley, argued for appellant. Stephen B. Ardis argued for respondent. Cause submitted.

C039149 HARTWICK v. D.B. FITE PROPERTIES, INC. et al.

Cause called. Mark E. Ellis argued, and Ronald R. Poirier appeared only for appellant. David S. Worthington, argued for respondent. Cause submitted.

At 11:00 a.m., the court recessed. At 11:05 a.m., the court reconvened with Nicholson, Associate Justice; Morrison, Associate Justice; and Kolkey, Associate Justice.

C028892 THE PEOPLE v. NGUYEN et al.

Cause called. Richard M. Doctoroff, court appointed counsel, argued for defendant-appellant Jimmy Nguyen and submitted additional citations. Paul Lacy, court appointed counsel, argued for defendant-appellant, Coung Nguyen. Sharon E. Loughner, Deputy Attorney General, argued for respondent. Cause submitted.

At 11:54 a.m., the court recessed. At 2:00 p.m., the court reconvened with Morrison, Associate Justice; Callahan, Associate Justice; and Kolkey, Associate Justice.

C039120 PRITCHETT v. AVON PRODUCTS, INC.

Cause called. Stephen J. Purtill argued for appellant. Dennis S. Ellis argued for respondent and submitted additional citations. Cause submitted.

At 2:45 p.m., the court recessed until 9:30 a.m., Tuesday, November 12, 2002.

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October 28, 2002, continued

- C038725 THE PEOPLE v. CROSS (Not for Publication)**
The judgment is affirmed. The trial court shall correct the abstract of judgment and forward a certified copy to the Department of Corrections.
KOLKEY, J.
We concur: Sims, Acting P.J.
 Morrison, J.
- C037161 GARCIA v. COUNTY OF SACRAMENTO and DEPARTMENT OF HEALTH SERVICES (Certified For Publication)**
The judgment (order denying reimbursement) is affirmed. (CERTIFIED FOR PUBLICATION.)
BLEASE, J.
We concur: Scotland, P.J.
 Kolkey, J.
- C038622 SIERRA CLUB et al., v. SAN JOAQUIN LOCAL AGENCY FORMATION COMMISSION and GOLD RUSH CITY HOLDING COMPANY, INC. et al., and CITY OF LATHROP (Not for Publication)**
The judgment denying and dismissing the petition for writ of mandate is affirmed. The order awarding attorney fees is reversed. Respondent is awarded costs on appeal. (Cal. Rules of Court, rule 16 (a).)
BLEASE, Acting P.J.
We concur: Morrison, J.
 Hull, J.
- C038844 COMMUNITIES FOR A BETTER ENVIRONMENT et al. v. CALIFORNIA RESOURCES AGENCY and CALIFORNIA BUILDING INDUSTRY ASSOCIATION (Not for Publication)**
The judgment is affirmed, except with respect to Guidelines section 15064 (i) (3) and Guidelines section 15152 (f) (2)'s incorporation of Guidelines section 15064 (i) (3), as explained herein. Respondents to the appeal and to the cross-appeal are each awarded their respective costs. Requests for attorney fees should be made to the trial court.
DAVIS, Acting P.J.
We concur: Morrison, J.
 Callahan, J.
- C039609 In re WENDELL L. JAMES on Habeas Corpus**
The order of the superior court is affirmed.
KOLKEY, J.
We concur: Davis, Acting P.J.
 Morrison, J.

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- C037650 THE PEOPLE v. GARLAND (Not for Publication)**
The judgment is affirmed.
 SIMS, Acting P.J.
We concur: Morrison, J.
 Callahan, J.
- C038251 THE PEOPLE v. LAWRENCE (Not for Publication)**
The trial court's findings that the 1989 battery conviction qualified for three strikes sentencing and for enhancement purposes is reversed. The judgment is otherwise affirmed. The cause is remanded to the trial court for resentencing or (at the prosecution's election) retrial of the 1989 prior conviction.
 SIMS, Acting P.J.
We concur: Nicholson, J.
 Robie, J.
- C038315 THE PEOPLE v. DAVID M. (Not for Publication)**
The judgment (order committing the minor to CYA) is affirmed.
 SIMS, Acting P.J.
We concur: Nicholson, J.
 Robie, J.
- C039590 THE PEOPLE v. ESCAMILLA (Not for Publication)**
The trial court is directed to prepare a corrected abstract of judgment reflecting that \$3,910 in restitution was ordered to be paid to the victim, "Dwyers," and to forward a certified copy to the Department of Corrections. The judgment is affirmed.
 HULL, J.
We concur: Scotland, P.J.
 Sims, J.
- C040555 THE PEOPLE v. DAVIS (Not for Publication)**
The judgment is modified to include the imposition of a \$50 laboratory analysis fee pursuant to Health and Safety Code section 11372.5, and the imposition of penalty assessments on that fee in the amount of \$85. The trial court is directed to prepare an emended abstract of judgment reflecting the laboratory analysis fee plus penalty assessments and the section 1202.45 parole revocation fine and to forward a certified copy to the Department of Corrections. As modified, the judgment is affirmed.
 ROBIE, J.
We concur: Sims, Acting P.J.
 Callahan, J.

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October 29, 2002, continued

C038999 In re S.S.; DEPARTMENT OF HEALTH AND HUMAN SERVICES v. D.S. et al.
(Not for Publication)
BY THE COURT:
Appellants' petition for rehearing is denied.
SCOTLAND, P.J.

October 30, 2002

C036734 THE PEOPLE v. FORSTEIN et al. (Not for Publication)
THE COURT:
It is ordered that the opinion filed herein on October 1, 2002, be modified as follows... The judgments are affirmed. There is a change in the judgment. Howard's petition for rehearing is denied.
FOR THE COURT:
RAYE, Acting P.J.
Callahan, J.

C038077 THE PEOPLE v. SEVERANCE (Not for Publication)
The findings of fact (robberies, enhancements, and prior convictions) are affirmed. The judgment is reversed and the matter remanded for trial on the remaining issue of defendant's plea of not guilty by reason of insanity. If defendant is found sane, the trial court shall reinstate the judgment.
HULL, J.
We concur: Scotland, P.J.
Robie, J.

C038777 THE PEOPLE v. SHELP (Not for Publication)
The judgment is affirmed.
HULL, J.
We concur: Callahan, Acting P.J.
Robie, J.

C038894 THE PEOPLE v. THOMAS (Not for Publication)
The judgment is modified as follows: defendant is ordered to pay a \$200 restitution fine (§ 1202.4) and a \$200 restitution fine suspended unless parole is revoked. (§ 1202.45). Defendant is awarded 116 days of state custody credit. The award of 16 days of local conduct credit is stricken. As so modified, the judgment is affirmed.
MORRISON, J.
We concur: Sims, Acting P.J.
Raye, J.

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- C039126 THE PEOPLE v. JOSEPH M. (Not for Publication)**
The order committing the minor to the CYA is hereby modified to show that his maximum period of confinement is 17 years. The juvenile court is directed to prepare an amended commitment order reflecting this change and to forward a copy thereof to the director of the CYA. In all other respects, the order committing the minor to the CYA is affirmed.
 MORRISON, J.
We concur: Sims, Acting P.J.
 Raye, J.
- C039484 THE PEOPLE v. LUNSFORD (Not for Publication)**
The judgment is affirmed.
 MORRISON, J.
We concur: Sims, Acting P.J.
 Davis, J.
- C039606 THE PEOPLE v. MARTINEZ (Not for Publication)**
The judgment is affirmed.
 ROBIE, J.
We concur: Davis, Acting P.J.
 Morrison, J.
- C041096 THE PEOPLE v. WICKLUND (Not for Publication)**
The judgment is affirmed. The trial court is directed to correct the abstract of judgment to reflect defendant pled guilty to burglary in the first degree in count 3 and to forward a copy of the abstract, as corrected, to the Department of Corrections.
 MORRISON, J.
We concur: Scotland, P.J.
 Callahan, J.
- C036664 TOSCO CORPORATION v. NEW HAMPSHIRE INSURANCE COMPANY (Not for Publication)**
The judgment is affirmed.
 BLEASE, Acting P.J.
We concur: Morrison, J.
 Hull, J.

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October 30, 2002, continued

C039000 VRISMO v. GREENSLADE et al. and YOUNT

(Not for Publication)

The order on objections to the third amended conservator accounting and first amended trust accounting is affirmed.

HULL, J.

We concur: Callahan, Acting P.J.

Robie, J.

C039067 HEFFEL v. LODI METAL TECH, INC. (Not for Publication)

The judgment is affirmed. Defendant is awarded its costs on appeal. The matter is remanded to the trial court to award defendant its attorney fees on appeal.

HULL, J.

We concur: Scotland, P.J.

Robie, J.

October 31, 2002

C034279 THE PEOPLE v. TORRES (Not for Publication)

The judgment is affirmed.

CALLAHAN, J

We concur: Sims, Acting P.J.

Kolkey, J.

C036080 THE PEOPLE v. JOHNSON, et al. (Not for Publication)

The section 969f findings are stricken. The enhancements to count three (the second section 246 conviction) are stayed until the completion of the defendants' prison terms, the stay to be permanent at that time. The concurrent enhancement for defendant Thompson's prior prison term is stricken. As thus modified, the judgment is affirmed. The trial court shall prepare amended abstracts of judgment for both defendants and forward them to the Department of Corrections.

DAVIS, J.

We concur: Scotland, P.J.

Raye, J.

C038199 THE PEOPLE v. WHITEBEAR (Not for Publication)

The judgment is affirmed.

SIMS, J.

We concur: Scotland, P.J.

Morrison, J.

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- C039453 THE PEOPLE v. KEVIN J. (Not for Publication)**
The judgment (order committing the minor to the CYA) is affirmed.
MORRISON, J.
We concur: Sims, Acting P.J.
 Raye, J.
- C041009 THE PEOPLE v. RAMOS (Not for Publication)**
The judgment is affirmed.
HULL, J.
We concur: Davis, Acting P.J.
 Kolkey, J.
- C038751 HAMILTON v. GOURLEY, as DIRECTOR, etc. (Certified For Publication)**
The judgment is reversed. The cause is remanded with directions to issue a peremptory writ of mandate commanding the DMV to set aside its suspension order. Hamilton shall recover costs. (CERTIFIED FOR PUBLICATION.)
CALLAHAN, J.
We concur: Davis, Acting P.J.
 Raye, J.
- C038996 CASSIDY v. SUKIME, LLC (Not for Publication)**
The order denying Sukime's motion to vacate the judgment is reversed. The cause is remanded to the trial court with directions to vacate the judgment and to take further proceedings as required by law. Cassidy shall reimburse Sukime for its costs on appeal. (Cal, Rules of Court, rule 26(a).)
SCOTLAND, P.J.
We concur: Callahan, J.
 Kolkey, J.
- C039773 MEADOWS v. WELCH (Not for Publication)**
The judgment is affirmed. Defendant is awarded costs on appeal.
NICHOLSON, Acting P.J.
We concur: Morrison, J.
 Hull, J.

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**C037157 In re A.S. et al.; SACRAMENTO COUNTY DEPARTMENT OF HEALTH AND
C037562 HUMAN SERVICES v. DONALD S. (Not for Publication)**
The orders are affirmed.
 HULL, J.
We concur: Sims, Acting P.J.
 Davis, J.

November 1, 2002

There were no minutes for this date.